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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,781	10/26/2003	David Andrew Hooke		2780

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Chicago, IL 60604

EXAMINER

DURHAM, NATHAN E

ART UNIT	PAPER NUMBER
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3765

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/605,781

Applicant(s)

HOOKE, DAVID ANDREW

Examiner

Nathan E. Durham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-14 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 5 is/are rejected.
- 7) ☒ Claim(s) 2 and 6-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Response to Amendment and Arguments

Applicant's amendment and arguments, filed 2 May 2006, have been reviewed and considered. Claims 1 and 5 have been amended and claim 3 has been canceled. Therefore, claims 1, 2 and 4-14 are currently pending.

Regarding claim 3, the applicant has stated that this claim is "withdrawn". Withdrawing a claim at this stage of the examiner process is considered to be improper procedure. It will be assumed that the applicant mistakenly used the term "withdrawn" when the applicant meant to state "cancelled". For the purpose of this Office Action claim 3 will be considered cancelled.

Applicant's arguments with respect to claim 1-4 have been considered but are moot in view of the new ground(s) of rejection based on applicant's amendment. This Office Action is considered a Final Rejection.

Specification

The amendment filed 2 May 2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: In applicants Amendment-After-Non-Final Rejection on page 2 (starting from second to last line of page) through page 3 (ending on line 15), the applicant inserts an amendment to the specification in order to "explain the

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operation of the speed sensor such that anyone skilled in the art can understand". In trying to accomplish this task the applicant has added new matter to the specification involving the structure and operation of the speed sensor that was not disclosed in the original application. For example, the "two slotted disks", "rotatably journaled shafts" and "trackball" with their corresponding functions are not mentioned in the original application and therefore the amendment as presented by the applicant should be deleted from the specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Objections

Claims 4-8 are objected to because of the following informalities:

Regarding claim 4, the applicant recites the limitation "the sewing machine" in line 2 of the claim. There appears to be insufficient antecedent basis for this limitation in the claim. A sewing machine fails to have been disclosed in parent claim 1 or in claim 4. The applicant does however state, "a stitch length regulator" in line one of the first claim that shows some sort of stitching device must be present, but the stitching device doesn't necessarily have to be a sewing machine. For the purpose of this Office Action, the stitch length regulator will be considered to be a component in a sewing machine system.

Regarding claim 6, the applicant recites the limitation "the frequency output of the sensor" in lines 1 and 2 of the claim. There appears to be

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insufficient antecedent basis for this limitation in the claim because it is not considered inherent that a speed sensor outputs a frequency.

Claims 5, 7 and 8 are objected to because the claims as disclosed by the applicant appear to represent apparatus claims, but the claim language of claims 5, 7 and 8 seems to be directed at method steps. What is the structure that is needed to accomplish the functions as disclosed in these claims? For the purpose of this Office Action, the method steps of claims 5, 7 and 8 will not be given weight because the claims contain purely functional language with no further limiting structure.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

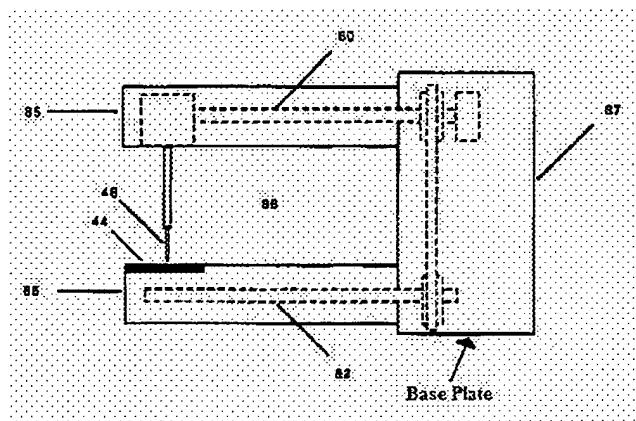
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by KOERNER (U.S. Publication 2005/0016428).

Regarding claims 1 and 4, KOERNER discloses an electronic stitch length regulator comprising a speed sensor (16, 64, 230, 266), a sensor arm (44, 86), a

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base plate (Refer to figure below), an electronic circuit (18, 65, 65', 268) and an electrical output connector. In the first few embodiments of the invention it is inherently shown that an electrical output connector exists as represented by figures 1, 2 and 7. Some sort of connector is inherently needed between the output (i.e. electrical) of the circuit to the device that is to be controlled (i.e. needle actuator, clutch/brake assembly, motor drive) in order to transmit the electrical output signals to control the device. In the embodiment as represented by figure 16, the electrical output connector can be considered the foot control adapter (270), cable (272) and/or plug (272). KOERNER further discloses the base plate being mounted below the sewing machine (Refer to figure below).



Claim 5 is also rejected under 35 U.S.C. 102(e) by KOERNER because the claim fails to further disclose any further limiting structure that reads over the prior art. The recitation, "converts speed of sensor to electrical resistance measured in Ohms" is purely functional language and is given no weight in the claim because the claim language of parent claim 1 is directed to an apparatus while the claim language of claim 5 seems to be directed toward a method. The circuit of KOERNER contains the structure as presented by the applicant,

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therefore the circuit of KOERNER is considered to be capable of providing the described function.

Conclusion

The prior art made of record, as cited on attached PTO-892, and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan E. Durham whose telephone number is (571) 272-8642. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary L. Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NED



GARY L. WELCH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700